

RESOLUTION NO. 2009-290

**RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY
OF SAN BERNARDINO ADOPTING A JOINT POLICY WITH THE
REDEVELOPMENT AGENCY OF THE CITY OF SAN BERNARDINO
REGARDING THE DISTRIBUTION OF TICKETS OR PASSES PURSUANT
TO THE REQUIREMENTS OF FAIR POLITICAL PRACTICES
COMMISSION REGULATION 18944.1**

WHEREAS, the California Fair Political Practices Commission ("FPPC") recently amended Title 2, Section 18944.1 of the California Code of Regulations (the "Regulation") relating to tickets or passes to facilities or events for entertainment purposes distributed by governmental agencies such as the City of San Bernardino ("City")/Redevelopment Agency of the City of San Bernardino ("Agency") to, or at the behest of, public officials; and

WHEREAS, from time to time, the City/Agency creates or receives event tickets and/or passes from public and private entities and individuals; and

WHEREAS, the City desires to use such tickets and/or passes to further public purposes, such as the promotion of City businesses, resources, programs and facilities; and

WHEREAS, the furtherance of public purposes may require the distribution of said tickets and/or passes to or at the behest of "public officials" as that term is defined by Government Code Section 82048 and FPPC Regulation 18701 and such term shall be applied to City officials as used in this Resolution; and

WHEREAS, FPPC Regulation 18944.1, subdivision (c) requires that any distribution of tickets and/or passes to, or at the behest of, City officials must be made pursuant to a duly adopted written policy if such distribution is made under Fair Political Practices Commission Regulation 18944.1, subdivision (b)(2); and

WHEREAS, consistent with the foregoing Recitals and according to FPPC Regulation 18944.1, such tickets and/or passes distributed in accordance with a duly adopted written policy are, when so distributed, not considered gifts to public officials; and

WHEREAS, the FPPC recognizes and has stated that a governmental agency such as the City has discretion in determining whether the distribution of tickets and/or passes serve a legitimate public purpose of the City, provided that the determination is consistent with State law.

1 NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED AND ORDERED BY
2 THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN BERNARDINO, AS
3 FOLLOWS:

4 **Section 1.** The Mayor and Common Council of the City of San Bernardino hereby adopts
5 the Policy together with the Redevelopment Agency of the City of San Bernardino governing the
6 distribution of complimentary tickets and passes to City officials for a facility, event, show or
7 performance, a copy of which is attached hereto marked Exhibit "A" and incorporated herein by
8 reference as fully as though set forth at length.

9 **Section 2.** This Resolution shall take effect upon its adoption and execution in the manner
10 as required by the City Charter.

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RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN BERNARDINO ADOPTING A JOINT POLICY WITH THE REDEVELOPMENT AGENCY OF THE CITY OF SAN BERNARDINO REGARDING THE DISTRIBUTION OF TICKETS OR PASSES PURSUANT TO THE REQUIREMENTS OF FAIR POLITICAL PRACTICES COMMISSION REGULATION 18944.1

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Mayor and Common Council of the City of San Bernardino at a joint regular meeting thereof, held on the 3rd day of August, 2009, by the following vote to wit:

<u>Council Members:</u>	<u>Ayes</u>	<u>Nays</u>	<u>Abstain</u>	<u>Absent</u>
ESTRADA	_____	_____	_____	<u> x </u>
BAXTER	<u> x </u>	_____	_____	_____
BRINKER	_____	_____	_____	<u> x </u>
SHORETT	<u> x </u>	_____	_____	_____
KELLEY	<u> x </u>	_____	_____	_____
JOHNSON	<u> x </u>	_____	_____	_____
MC CAMMACK	<u> x </u>	_____	_____	_____

(c)(1)

The foregoing Resolution is hereby approved this 6th day of August, 2009.

(c)(1)

Approved as to Form:

(c)(1)

B

EXHIBIT "A"
TICKET POLICY FOR THE CITY OF SAN BERNARDINO AND THE
REDEVELOPMENT AGENCY OF THE CITY OF SAN BERNARDINO
FOR ENTERTAINMENT PURPOSES

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**City of San Bernardino/Redevelopment Agency of the City of San Bernardino
DISTRIBUTION, USE AND REPORTING
OF TICKETS AND PASSES POLICY**

A. Purpose

This policy is to establish a City/Agency-wide procedure for the distribution, use and reporting of tickets or passes to a facility, event, show or performance for an entertainment, amusement, recreational or similar purpose (hereinafter the "Event") in compliance with Section 18944.1 of the Fair Political Practices Commission Regulations (hereinafter "FPPC Regulations").

The FPPC Regulations set out the circumstances under which a public agency's distribution of tickets or passes for which no consideration of equal or greater value is provided by the public official or employee does not result in a gift to the public official or employee. Tickets or passes to an Event distributed and accounted for in compliance with this policy and FPPC Regulations will not be considered as gifts to the City of San Bernardino ("City") or the Redevelopment Agency of the City of San Bernardino ("Agency") officials and employees who make use of such tickets and passes. The public and governmental purpose in distributing tickets and passes to Events is to enable City or Agency officials and employees to promote City businesses, resources, programs and facilities, to monitor and evaluate City venues and City-sponsored events, to promote cultural, recreational and educational facilities, services and programs available to the public within the City of San Bernardino, and to enhance employee morale.

This policy is subject to all applicable FPPC Regulations and the Political Reform Act. Nothing in this policy is intended to alter, amend or otherwise affect the obligations of City or Agency officials and employees under the Political Reform Act and implementing regulations.

B. Policy

1. Definitions.

- a. "City" means the City of San Bernardino and the Redevelopment Agency of the City of San Bernardino.
- b. "City Manager" means the City Manager or his/her designee.
- c. "Agency Director" means the Director of the Redevelopment Agency of the City of San Bernardino or his/her designee.
- d. "City official" means every member, officer, employee or consultant of the City of San Bernardino or the Redevelopment Agency, as the term "public official" is defined in Government Code Section 82048 and FPPC Regulations Section 18701. Such term shall include, without limitation, any City Board or Commission member or other appointed official or employee required to file an annual Statement of Economic Interests (FPPC Form 700).
- e. "Immediate Family" means spouse and dependent children.
- f. "Ticket" means "ticket or pass" as that term is defined in FPPC Regulations Section 18944.1, as amended from time to time, but which currently defines "ticket or pass" as admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

2. Applicability.

This policy applies to tickets and passes that are: (i) gratuitously provided to the City by an outside source; or (ii) acquired by the City by purchase; or (iii) received by the City as consideration pursuant to the terms of a contract or because the City owns or controls the facility or venue at which the Event occurs or sponsors the Event.

3. Public Purpose.

Any distribution of tickets or passes in accordance with this policy to a City official, or to an individual or organization outside the City at the request of a City official, must be in furtherance of a governmental and/or public purpose and be reported as provided in this policy.

C. Procedure for Distribution and Reporting

1. **Distribution.** The City has sole discretion to determine who shall receive the tickets or passes received or acquired by the City.

a. Tickets or passes that are donated or provided by an outside source and are earmarked for use by a specific City official are considered gifts to the City official and are subject to the disclosure and reporting requirements applicable to gifts, unless one of the exemptions listed below apply.

1. **Ceremonial Role or Function.** Tickets or passes provided to a City official to carry out his or her job duties or where the City official will perform a ceremonial role or function on behalf of the City at the Event are not considered gifts to the City official and are exempt from the disclosure and reporting requirements of this policy.

2. **Income.** The City official treats the tickets or passes as income consistent with federal and state income tax laws and the City reports distribution of the tickets or passes as income to the City official on the FPPC Form 802.

3. **Reimbursement.** The City official purchases or reimburses the City for the face value of the tickets or passes.

b. Tickets or passes received by the City from an outside source without designation as to the specific City official who may use the tickets or passes shall be forwarded to the City Manager or Agency Director who shall determine the face value of the tickets or passes, the City official who may use them, and report their distribution as provided in Section C.2 below.

c. For tickets or passes received by the City pursuant to the terms of a contract or because the City owns or controls the facility or venue at which the Event occurs or the City sponsors the Event, a City official may request use of these tickets or passes, or for distribution to an individual or organization outside the City, by completing Parts 3 and 4 of FPPC Form 802 (Attachment A) and submitting the request to the City Manager or Agency Director.

d. Elected City Officials. For tickets or passes purchased or acquired by the City for use by an elected City official, or for distribution to an individual or organization outside the City at the request of an elected City official, the office of the elected City official shall be responsible for reporting the distribution of the tickets or passes as provided in Section C.2. below.

e. If the tickets or passes do not have a stated face value or state something to the effect of “complimentary” or “promotional,” the City Manager or Agency Director shall determine the value of the tickets or passes based on the reasonable cost for attendance at such an Event.

f. The City Manager or Agency Director shall establish an internal procedure set forth in writing for the distribution of tickets or passes in accordance with this policy.

2. Reporting Requirement. Tickets or passes distributed by the City to a City official, or to an individual or organization outside the City at the behest of a City official, pursuant to this policy, shall be documented in a completed FPPC Form 802 (see Attachment A) or such other form(s) as the FPPC may designate. The completed Form 802 shall be filed with the City Clerk and posted on the City’s website in a prominent fashion within 30 days after distribution of the tickets or passes.

3. Transfer Prohibition. A City official who receives tickets or passes distributed by the City according to this policy is prohibited from transferring or giving the tickets or passes to any other person except to members of the official’s immediate family for their personal use. No person receiving a ticket or pass pursuant to this policy shall sell or receive reimbursement for the value of the ticket or pass.

4. Policy Limited to ticket or pass. If other benefits, such as food, beverages or other items, are provided to the City official at the Event and they are not included as part of the admission to the Event, those benefits shall be accounted for as gifts to the City official.

D. Effective Date

This policy shall be effective upon City Council and Community Development Commission approval and shall be posted on the City website in a prominent fashion.

Tickets Provided by Agency Report

California
Form **802**

A Public Document

This form is for use by all state and local government agencies to disclose the distribution of tickets or passes that allow admission to facilities, events, shows, or performances for entertainment, amusement, recreational, or similar purposes. The agency must complete Form 802 identifying agency officials who receive tickets or passes from the agency as well as other individuals and organizations that receive tickets or passes at the behest of agency officials. Form 802 must be posted in a prominent fashion on the agency's website.

Gifts of Tickets or Passes to Public Officials

FPPC Regulation 18944.1 sets out the circumstances under which an agency's distribution of tickets or passes to or at the behest of an official in the agency does not result in a gift to the official. (Regulation 18944.1 is available on the FPPC website at www.fppc.ca.gov.) Even though the distribution of tickets or passes to a public official under the regulation is not a gift to the official, the agency must disclose the distribution on Form 802. The official does not have to disclose tickets or passes received or distributed under the regulation on his or her Statement of Economic Interests (Form 700), but tickets or passes received or distributed by the official that do not fall under the regulation may be subject to disclosure on the official's Form 700 and subject to gift limits.

Posting Form 802

The Form 802 must be posted on the agency's website within 30 days after the distribution. If the agency does not maintain a website, the form must be maintained by the agency as a public record, be available for public inspection and copying, and be forwarded to the FPPC for posting on its website.

Part 1. Agency Identification

List the agency's name, address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

Part 2. Event For Which Tickets Were Distributed

Provide the date(s) of the event, a description of the event, and the face value (i.e. the cost to the public) of the ticket or pass. Check the box indicating whether the event was an "agency event" (such as a county fair, or an event for which the agency purchased tickets). If the agency received the tickets from an outside source, identify the source, the number of tickets received, and check the box to identify whether the tickets or passes were provided to the agency:

- Gratuitously; or
- Pursuant to a contract.

Part 3. Agency Official(s) Receiving Ticket(s)

Disclose the name of each agency official that received a ticket or pass and the number of tickets or passes the official received. Also state whether the distribution is income to the official or describe the public purpose for which the official received the tickets or passes.

Part 4. Individual or Organization Receiving Ticket(s)

If tickets or passes were distributed to an individual or organization outside the agency, at the behest of an official of the agency, provide the name of the official. Disclose the name(s) of the individual(s) who received the tickets or passes and the number of tickets or passes provided. If the tickets or passes were provided to an organization, the agency may post the name, address, a description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the name of each individual that received a ticket or pass. Also, describe the public purpose for the distribution to the individual or organization.

Part 5. Verification

The agency head or his or her designee must sign the form.

Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Government Code Sections 81000-91014 and California Code of Regulations Sections 18109-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Act Notice, please contact the FPPC.

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